

The Commonwealth of Massachusetts
Executive Office of Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114-2524

MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

STEPHEN R. PRITCHARD
SECRETARY

Tel. (617) 626-1000
Fax. (617) 626-1181
<http://www.mass.gov/envir>

November 14, 2005

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
SUPPLEMENTAL SINGLE ENVIRONMENTAL IMPACT REPORT

PROJECT NAME	: Fruit Street Master Plan
PROJECT MUNICIPALITY	: Hopkinton
PROJECT WATERSHED	: SuAsCo
EOEA NUMBER	: 13092
PROJECT PROPONENT	: Town of Hopkinton
DATE NOTICED IN MONITOR	: October 8, 2005

As Secretary of Environmental Affairs, I hereby determine that the Supplemental Single Environmental Impact Report (SSEIR) submitted on this project **does not adequately and properly comply** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00). Therefore, I am requiring that the proponent submit a second SSEIR to address alternatives analysis and other issues as further detailed in this Certificate.

A Special Review Procedure (SRP) was established for the review of the Fruit Street Master Plan (SRP Certificate, September 22, 2003). The SRP established an EIR process that consists of the filing of a Single Master Plan EIR and subsequent filings of a series of Notices of Project Change (NPC) to provide a more detailed level of analysis for specific project elements.

The purpose of the Master Plan is to allow the public to understand the potential minimum and maximum environmental impacts of the development before individual projects are proposed. While the proponent has provided valuable information that will assist in subsequent reviews, it has not provided information that illustrates how environmental impacts could be significantly minimized, as was required for this document.

As described in the SEIR, the proposed project involves phased development of a 257 acre site off Fruit Street. Components of the proposed project include an elementary

school, a DPW facility, affordable and senior housing (154 units), recreation fields, a public drinking water supply well, wastewater treatment and disposal areas, and access roadways. Approximately 108 acres of the site is proposed for development and the remaining 149 acres will be kept as open space, which will be permanently protected under Conservation Restrictions. Site development will result in approximately 17 acres of new impervious area. The proposed Master Plan includes construction of a water supply well for groundwater withdrawal of 500,000 gallons per day (gpd) and an irrigation well to withdraw approximately 1,100 gpd. The wastewater project component includes treatment and land disposal of approximately 350,000 gpd of effluent and construction of associated infrastructure. Traffic is estimated at approximately 2,850 daily vehicle trips and the proposed Master Plan includes 798 parking spaces.

A Final Record of Decision (February 11, 2005) granted a Phase I Waiver for certain project components including gravel access road improvements, athletic field construction, removal of existing buildings and underground storage tanks (USTs), and drainage improvements for a portion of Fruit Street.

The project is undergoing environmental review and requires the preparation of a mandatory EIR pursuant to Sections 11.03(1)(a)(1) and (2) of the MEPA regulations because it involves alteration of 50 acres or more of land and creation of 10 acres of more of impervious area. The project is also undergoing review pursuant to Section 11.03(4)(b)(1) because it involves withdrawal of 100,000 or more gpd from a water source requiring new construction for the withdrawal, Section 11.03(5)(b)(1) because it involves construction of a new wastewater treatment and disposal facility with a capacity of 100,000 or more gpd, and Section 11.03(2)(b)(2) because it involves a take of a state-listed rare species. The project also meets the ENF thresholds for sewer mains construction, traffic and parking.

The project will require a Water Management Act Permit, a Groundwater Discharge Permit, New Source Approval, and a Sewer Extension Permit from the Department of Environmental Protection (DEP). The site will require a site assignment and a public hearing in accordance with MGL Chapter 83, Section 6. A Conservation and Management Permit from the Division of Fisheries and Wildlife (DFW), Natural Heritage and Endangered Species Program (NHESP) is also required. The project requires an Order of Conditions from the Town of Hopkinton Conservation Commission (and, on appeal only, a Superseding Order from DEP) and other local permits.

The proponent may seek financial assistance from the Commonwealth for the project. MEPA jurisdiction therefore extends to all aspects of the project that may cause significant Damage to the Environment as defined in the MEPA statute¹.

¹ In the event that the proponent does not seek financial assistance from the Commonwealth for the project, MEPA jurisdiction would extend to the subject matter of required or potentially required state permits or Agency Actions. Given the broad subject matter of the permits required, most of the potential impacts would likely fall within MEPA jurisdiction.

MEPA Special Review Procedure and Scope for Supplemental SEIR

The SEIR is intended as a master planning document and as such the alternative and cumulative impact analysis should be sufficient to ensure appropriate planning for the full-build out of the site. Many of the comments received addressed inadequacies in the alternatives analysis which I anticipate will be addressed in the second Supplemental SEIR. Comment letters also addressed gaps in the cumulative impacts analysis. While I anticipate some issues relating to cumulative impacts to be addressed in the second SSEIR, others may be addressed in future MEPA filings. Many comments also addressed gaps in the analysis of potential impacts of specific project components which are intended to be addressed at a future stage of Master Plan development as described in the Certificate establishing a SRP on September 22, 2003.

As described below, the second Supplemental SEIR should provide further information on potential alternatives and impacts. I anticipate further detailed information on projects components in future MEPA filings. The SRP stated that, following a certification of adequacy of the Master Plan Single EIR, the proponent will prepare information on specific project element(s) in the form of a series of Notices of Project Change (NPC). A public comment period, which may include a site visit and public consultation session, will follow publication of NPC notices in the *Environmental Monitor*. I will review the NPCs and determine whether further MEPA review is required.

Justification for Finding of Inadequacy

The Certificate on the SEIR (December 30, 2004) determined that the SEIR did not adequately respond to the alternatives analysis requirements in the Certificate on the Environmental Notification Form (ENF). The Scope for the Supplemental SEIR (SSEIR) required a reduced-scale Master Plan and an evaluation of alternative layouts to minimize impervious area and other environmental impacts. The SSEIR does not present a reduced-scale Master Plan as required by the SEIR Certificate.

Alternatives considered, and rejected, in the SSEIR include two alternative site access roads to avoid the Zone I area, removal of the DPW sand/salt and fuel storage facilities from the Master Plan, additional residential units in the senior housing area, and the Master Plan as proposed in the SEIR. While the SSEIR does present a nominal alternatives analysis, it does not present a reduced-build alternative that illustrates a meaningful reduction of potential environmental impacts. The Scope for the SSEIR requires a reduced-scale Master Plan that minimizes impacts to priority habitat areas from roadways, housing and recreational fields, and requires that the SSEIR evaluate alternative layouts for the housing component to minimize environmental impacts. The Scope also requires an analysis of alternative layouts that identify opportunities to minimize impervious area from roadways, parking and other structures. These issues are not addressed in the SSEIR. When compared to the project proposed in the SEIR, all the alternatives put forward in the SSEIR, including the current preferred alternative, result in increased forest clearing, impervious area, and traffic impacts. This does not constitute a

reduced-build alternative as intended in the Scope for the SSEIR. In addition, the acreage proposed for a Conservation Restriction (CR) in the SEIR has been reduced from 145 to 98 acres. It is not clear from the SSEIR how the alternatives compare in terms of overall land alteration impacts as the total acreage of land altered for each alternative, or for individual project components (e.g. housing, recreational fields, school etc.), is not provided. The Second SSEIR should provide a reduced-build alternative and provide additional information to clarify land alteration impacts and the proposed CR acreage.

Alternatives

The second SSEIR should present one or more reduced scale Master Plan alternatives. The purpose of the reduced scale alternative is to identify opportunities to avoid and minimize environmental impacts, and provide examples of different levels of development and different site configurations that can guide future planning and development of the site. In developing a genuine reduced-build alternative, the proponent should consider alternatives that eliminate certain project components and reduce the overall level of development. For example, eliminating the DPW facility may provide opportunities to reconfigure the layout of other plan elements. Eliminating the wastewater treatment facility (WWTF) or senior housing, or reducing the overall number of housing units or recreational fields, may provide opportunities to relocate the school. The second SSEIR should give serious consideration to alternatives that will minimize overall land alteration and impervious area, and enhance protection of water resources and rare species habitat.

I encourage the proponent to reconsider other site access points for the main roadway that will avoid wetlands and Zone I impacts and to consider removing the DPW facility as an alternative (rather than splitting the facility between Fruit Street and the existing DPW location). The alternatives analysis should consider layouts that maximize distances between project elements and Zone I boundaries to the extent feasible. Site Plans in the second SSEIR should delineate Zone I and Zone II boundaries of existing and proposed wells.

None of the alternatives presented in the SSEIR provide any significant reduction in overall land alteration and impervious area. I expect the second SSEIR to address this issue and provide sufficient data so that the overall impacts of different alternatives can be compared. I encourage the proponent to consider alternative designs that increase clustering, and reduce impervious area and forest clearing. The proponent should evaluate Low Impact Development (LID) techniques and describe how LID will be incorporated to promote ecologically-sensitive project design and site planning. The second SSEIR should clarify and justify the number of parking spaces proposed.

Conservation Restrictions

The SSEIR indicates that only 98 acres of land will be placed under a Conservation Restriction (CR), compared with 149 acres as proposed in the SEIR (and 145 in the draft CR text). The proponent has indicated that an additional 51 acres of land

(designated as open space in the SEIR) will be placed under a CR, under the ownership of the Town's water supply department. The SSEIR should clarify, and make clear commitments to, the total amount of land to be placed under CRs. The second SSEIR should also clarify whether all Riverfront Area and the Zone Is for the three potential wells are included in the CR areas (i.e. the proposed H2 well and the two wells identified as potential sources but removed from the preferred alternative Master Plan). The second SSEIR should discuss details of the proposed CRs in terms of allowed uses, specific restrictions, and ownership. I remind the proponent that details of both CRs will need to be approved by NHESP. The second SSEIR should provide an update on NHESP consultations and the status of the Conservation and Management permit process. Site plans in the second SSEIR should clearly identify proposed CR areas.

Permits and Zoning Issues

The second SSEIR should provide an update on all permits required for the project, including local permits. Many comment letters received noted that because the project site is located in a Water Resource Protection Overlay District, certain project components may require Special Permits and others, such as the DPW, may not be permitted under local zoning. I encourage the proponent to consult with the Town of Hopkinton Board of Appeals and the Zoning Enforcement Officer to resolve these issues. The second SSEIR should provide an update on consultations and clarify local permits and zoning issues to the extent feasible. I anticipate, that should the DPW or other project elements proceed, local permit requirements and zoning issues will also be addressed in future NPCs.

Stormwater

The second SSEIR should address the net loss of hydrological input at point 4a (Table 3-4), as well as potential impacts to Whitehall Brook during critical low flow situations, as further detailed in the comments on the run-off analysis from the Riverways Program and the Hopkinton Conservation Commission.

Cumulative Impact Analysis

The SSEIR addressed many of the issues raised in the Scope with regard to cumulative impacts of the proposed wastewater discharge and water supply withdrawals. The second SSEIR should evaluate and discuss cumulative impacts of the reduced-scale Master Plan and compare with other alternatives. The second SSEIR should describe the interaction of project components. The second SSEIR should also clarify additional infrastructure planned (e.g. length of water/sewer mains) to connect additional homes and businesses to the proposed water and wastewater facilities, and discuss potential secondary growth impacts. I will expect additional detailed information on these project components in future MEPA filings.

The Supplemental SEIR should describe what additional analysis of cumulative impacts, associated with individual project components, will be incorporated in project planning and as part of future MEPA filings.

The SSEIR indicates that negative impacts on Whitehall Brook due to water withdrawal are not anticipated as there will be sufficient recharge from the WWTF flow. The NPC for the proposed well, or the WWTF, (whichever is first) should evaluate impacts to surface water resources, and groundwater recharge to wetlands and vernal pools, in the event that the well is operational before the WWTF, or in the event that the WWTF is not constructed. I expect that the NPC for the water supply well will also address potential cumulative effects of the proposed well and other existing or proposed withdrawals in the project area.

Historic and Archaeological Resources

The project site contains two historic sites identified during an intensive archaeological survey completed in 2001. These sites consist of two nineteenth-century farmstead complexes, which were designated the J. Dickman Farmstead Site and the Sanctuary Golf Course Historic Site I. As further detailed in the MHC comment letter, these sites may provide important information about nineteenth-century agrarian development and rural life in Hopkinton, and should be avoided. According to the Supplemental SEIR, the proposed project avoids the area where these archaeological sites are located. In the event that these sites may be disturbed due to any changes in project plans or future development activities, the proponent should consult with MHC regarding additional investigations or measures that may be required to protect historic and archaeological resources.

Wetlands

The SSEIR provided a revised drainage analysis and information on the project's hydrologic impacts to wetlands. The hydrological analysis was modified since the filing of the SEIR to address comments received and to take account of site layout changes. The proponent has committed to a stormwater management system designed to provide peak discharge rate attenuation and water quality treatment that provides 87% Total Suspended Solids (TSS) removal, and to ensure that groundwater recharge is maintained under post-development conditions. The SSEIR indicates that 2-year storms will be retained and recharged through detention and infiltration. Future NPCs should provide additional details to validate recharge calculations as recommended by the Hopkinton Conservation Commission.

The proposed project involves minor work relating to road improvements in the 100-foot wetlands buffer zone but does not involve any direct alteration of wetlands resources. Some comment letters noted the potential for wetlands impacts due to crossings related to the proposed WWTF. The NPC for the WWTF should clearly identify and quantify temporary and permanent wetlands impacts. As further detailed in the SSEIR, direct hydrological inputs to wetlands will remain unchanged under post-

development conditions and there will be an overall increase in wetlands input as a result of infiltration basin design and location. The SSEIR indicates no negative impacts to wetlands hydrology as a result of the proposed project. Any changes in proposed wetlands impacts should be addressed in future filings.

Water Supply

The project includes a new well for a withdrawal of up to 500,000 gpd. As discussed in the SSEIR, the proponent is not seeking an increase in the volume of water to be withdrawn under its Water Management Act permit for wells in the Whitehall Brook sub-basin. The SSEIR indicates that the new well (H2) will be used to augment existing wells in the sub-basin. I expect additional details on the proposed well during future MEPA filings in accordance with the SRP. The NPC for the proposed well should include information on safe yields and potential cumulative effects of the proposed well and others in the project area. The NPC should provide information on additional infrastructure on and off-site associated with the proposed well and discuss potential secondary growth impacts, including the number of homes, businesses and other developed or undeveloped lots that may connect to the proposed new water supply system. The NPC should discuss whether the proposed new well will result in any change in the amount of water currently purchased from the Town of Ashland. The NPC for the proposed well should also include details on the Town's proposed water conservation measures. The next project filing should also clarify the volume of water anticipated for irrigation needs and identify the location of proposed irrigation wells.

The Supplemental SEIR provided additional analyses of potential wastewater discharge impacts on the proposed water supply well and on Whitehall Brook. According to the SSEIR, the well will not draw in any wastewater-impacted groundwater under average pumping conditions and maximum wastewater discharge. The SSEIR analysis also considers maximum pumping conditions and a worst-case scenario, and indicates that although, under such conditions, a small percentage of water drawn in could consist of wastewater-impacted groundwater, the travel time would range from more than 2 years to ten years, which is acceptable under DEP guidelines.

The SSEIR also considered potential water withdrawal impacts to Whitehall Brook and indicates that the project will result in a net increase in water to the Brook's sub-basin due to the proposed wastewater discharge of 350,000 gpd, which will improve low flow conditions. Potential impacts in the absence of the WWTF should be considered as further detailed above under Cumulative Impacts Analysis. The NPC for the proposed well should provide additional information regarding potential impacts to the Sudbury River and Whitehall Brook during low flow conditions. I strongly encourage the proponent to consider the USGS/DCR study² referenced by the Sudbury River Watershed Organization in analysis and decision-making for the proposed well and other project components.

² *Water Resources of the Upper Sudbury River Basin, Massachusetts: A Comparative Modeling and Aquatic Habitat Investigation*, jointly financed by U.S. Geological Services (USGS) and the Massachusetts Department of Conservation and Recreation (DCR)

Water Quality

The SSEIR provided additional analyses of potential water quality impacts on-site and off-site. The SSEIR also provided baseline data on groundwater and surface water quality, which includes the results of water sampling conducted during July-September 2005. According to the SSEIR, the discharge of treated wastewater will not measurably affect surface water or groundwater quality on or adjacent to the property. I expect additional information on baseline conditions and water quality monitoring plans in a future filing for the WWTF.

The proponent has committed to implementation of a stormwater management system that will exceed the DEP stormwater policy standards. The SSEIR also proposes salt and fuel storage and handling measures as well as personnel training and inspections to avoid adverse impacts to water quality associated with the proposed DPW facility. As with other components of the project, additional details on the DPW design and operations will be provided in a future MEPA filing. Should the proponent proceed with plans for the DPW, the NPC should describe impacts associated with a worst-case scenario in the event of an accident, equipment malfunction or other situation that may threaten public water supplies. A contingency plan to address potential water resource and other impacts associated with a release of fuel, salt or hazardous material should be provided in a future filing for the DPW.

The proponent has committed to an environmentally-sensitive turfgrass management plan and landscaping approaches that are designed to limit the use of chemicals and avoid adverse impacts to water quality from run-off and groundwater infiltration. Further details on turfgrass management and landscaping plans should be provided in future NPCs.

Wastewater

In response to the Scope for the Supplemental SEIR and comments received from DEP and others, the sewer line route has been changed to keep sewer lines out of the Zone I of public water supplies. The Board of Health and other commenters have raised concerns regarding the proximity of sewer lines to the Zone I. Future filings should provide additional information on measures to avoid, minimize and mitigate potential impacts to water supplies from sewer infrastructure.

The proposed WWTF and disposal area will be constructed on approximately 15 acres of the project site. The facility will be enclosed and include a state-of-the-art odor control system. The disposal area consists of an underground system of leach fields and according to the SSEIR, will not impede public use of athletic fields, hiking trails or other areas of the site. The SSEIR provided additional details on facility components and effluent treatment requirements. Comment letters received highlighted concerns regarding phosphorous loading, heavy metals and other chemicals that could adversely impact Whitehall Brook and the Cedar Swamp ACEC. I expect additional details on the

WWTF design, including potential impacts, long-term monitoring plans, in-flow/infiltration, and an update on the DEP permit process, in an NPC for the proposed facility. The NPC for the WWTF should also address potential impacts of accidents and equipment malfunctions and describe measures to respond to such situations, and to avoid and minimize or mitigate water supply or other environmental impacts.

The SSEIR discussed, and rejected, the possibility of reuse of wastewater for irrigation. Grey water reuse is being considered for the proposed elementary school, and I commend the proponent for its efforts in this regard. I encourage the proponent to consult with DEP regarding regulatory requirements and feasibility of wastewater reuse and I will expect further details on the proposed WWTF, sewer infrastructure, and wastewater reuse plans in future MEPA filings. A number of comment letters highlighted issues relating to potential sprawl associated with the proposed wastewater infrastructure. I expect these issues to be addressed in the second SSEIR and I expect additional details on sewer pipeline extensions on and off-site to be included in a NPC filing. In addition to details on sewer location, length and route, the NPC should also include information on the number of homes, businesses and other developed or undeveloped lots that may connect to the proposed new sewer system.

Alternative sites to handle the Town's wastewater disposal needs should also be addressed in a NPC for the proposed WWTF. The Certificate on the Town's Phase IV CWMP (January 28, 2005) recommended further study of the Weston Nurseries site before site selection is finalized and strongly encouraged the proponent to conduct a comparative analysis of the advantages and disadvantages of using each site before beginning detailed design. Comment letters indicate that the proponent is considering purchase of the Weston Nurseries. Several letters comment on the need to weigh the advantages and disadvantages of recharging the Sudbury River (from the Fruit Street location) versus recharging the Hopkinton Reservoir (from Weston Nurseries location). Should the proponent proceed with plans for wastewater disposal at the Fruit Street site, the NPC for the WWTF should provide an update on the Weston Nurseries site including a summary of any additional studies conducted. The NPC should address comments relating to the choice of wastewater disposal site and how the proposed location will support the sustainability of the Town's aquifers and benefit the SuAsCo watershed.

Rare Species

The NHESP has determined that the proposed project will result in a "take" of the Spotted Turtle (*Clemmys guttata*). The proponent should work closely with NHESP to finalize the conditions for a Conservation and Management Permit including details relating to proposed turtle crossing design and Conservation Restriction (CR) language and boundaries as further detailed in the comment letter from NHESP.

The SSEIR included a draft CR for the area to be placed under permanent protection. There is some discrepancy between the site plans and the draft CR in terms of the total area proposed for a CR. The draft CR indicates that 145 or acres will be placed under a CR to ensure permanent protection. However, the preferred alternative in the

SSEIR indicates that 98 acres will be placed under a CR and that 51 acres will remain as open space under the ownership of the Town of Hopkinton Water Supply Department. It is not clear if the 51 acres will also be placed under a CR or how permanent protection will be achieved.

As further detailed above, I expect clarification on proposed CRs in a second SSEIR. The proponent should work with NHESP to finalize the CR boundaries as part of the Conservation and Management permitting process. A copy of the final CRs should be submitted to the MEPA office for the project file.

The proponent should also consult with NHESP on other aspects of project design and ensure that the final design of wells, the WWTF, stormwater management system and other project components avoids short-term and long-term adverse effect to resource area rare species habitat protected pursuant to the provisions of the Wetlands Protection Act regulations.

Transportation

Traffic issues associated with the proposed project, and the lack of public transportation to serve residents of the affordable and senior housing, have been raised in many comment letters. The NPC for the proposed housing component of the Master Plan should provide additional information on measures proposed to enhance access to public transportation from the project site.

Response to Comments

The second SSEIR should respond to the comments received to the extent that they are within MEPA jurisdiction. The proponent should use either an indexed response to comment format, or direct narrative response. The second SSEIR should present any additional narrative or quantitative analysis necessary to respond to the comments received.

Mitigation

The second SSEIR should include a summary and explanation of mitigation measures to which the proponent is committed, which should be updated to reflect any changes since the SSEIR. The SSEIR should include information on estimated mitigation costs and identify parties responsible for implementation. The second SSEIR should include a draft Section 61 findings for the Conservation and Management Permit.

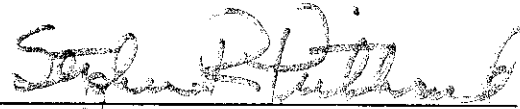
Circulation

The second SSEIR should be circulated to all those who submitted comments on the SSEIR, as listed below, to those who submitted comments on the SEIR and ENF, and to others as required by Section 11.16 of the MEPA regulations. A copy of the second

SSEIR should be made available for public review at Hopkinton Public Library. A circulation list should be included in the second SSEIR.

November 14, 2005

DATE



Stephen R. Pritchard, Secretary

Comments Received:

10/28/05	Town of Hopkinton Board of Appeals
10/31/05	Massachusetts Historical Commission
11/03/05	Division of Fisheries and Wildlife, NHESP Program
11/04/05	Conservation Law Foundation
11/07/05	Town of Hopkinton Board of Selectmen
11/07/05	Riverways Program
11/07/05	Joseph M. Markey
11/07/05	Mary C. Pratt
11/07/05	Town of Hopkinton School Committee
11/08/05	Cedar Swamp Conservation Trust
11/08/05	Muriel Kramer
11/08/05	Sudbury River Watershed Organization
11/08/05	Kevin Kohrt
11/09/05	Town of Hopkinton Board of Health
11/10/05	Town of Hopkinton Conservation Commission

SRP/AE/ae